

DOCUMENT RESUME

01975 .. [A1052023]

[Reimbursement of Difference between Damages to Household Goods and Amount Paid in Settlement]. B-188264. April 8, 1977. 3 pp.

Decision re: Ernest I. Aragon; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: United States Secret Service; Aero Mayflower Transit Co., Inc.

Authority: Military Personnel and Civilian Employees' Claims Act of 1964, as amended (P.L. 88-558; 78 Stat. 757, as amended; 31 U.S.C. 240-243 (Supp. IV)). 31 C.F.R. 4.4(d), 4.5(b). 31 C.F.R. 4.12.

Duncan Calcote, Authorized Certifying Officer, U.S. Secret Service, requested a decision concerning reimbursement to a Secret Service employee of the difference between damages to his household goods incurred in change of duty station and the amount paid in settlement by the carrier. GAO has no jurisdiction to consider claims for loss of, or damage to, personal property of employees of the Secret Service. (RRS)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

*JANNICELLI
CIV. PER.*

FILE: B-188264

DATE: April 8, 1977

MATTER OF: Ernest I. Aragon - Reimbursement of damages to personal property

DIGEST: Secret Service employee claims reimbursement of difference between damages to his household goods incurred incident to transfer and amount paid to employee by carrier in settlement thereof. Claim under Military Personnel and Civilian Employees' Claims Act of 1964 may not be paid unless the head of the agency or his designee makes a determination that claim should be paid. GAO has no jurisdiction to consider claims for loss of, or damage to, personal property of Secret Service employee under such Act. 31 U.S.C. §§ 240-243 (Supp. IV, 1974).

This matter was submitted on January 19, 1977, for an advance decision by Duncan Calcote, an authorized certifying officer of the United States Secret Service, Department of the Treasury. The question presented is whether a voucher dated November 10, 1975, in the amount of \$265, in favor of Mr. Ernest I. Aragon, an employee of the Secret Service, for damage to his household goods incurred in connection with his change of official duty station, may properly be paid under the provisions of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. §§ 240-243 (Supp. IV, 1974).

The facts and circumstances giving rise to Mr. Aragon's claim, as disclosed by the record, are set forth below. On April 29, 1975, the Secret Service issued an official travel order authorizing a permanent change of station for Mr. Aragon from Albuquerque, New Mexico, to Los Angeles, California. Reimbursement for transporting his household goods was authorized under the commuted rate system. Mr. Aragon engaged the services of the Aero Mayflower Transit Company to transport his household goods under a commercial bill of lading. The household goods were picked up at his residence in Albuquerque on July 12, 1975. When Mr. Aragon took delivery of his household goods in Los Angeles, he noted that some of his furniture had been damaged during shipping and subsequently filed a claim in the amount of \$955 with Mayflower. The company agreed to pay \$690 in settlement of the claim.

B-188264

Mr. Aragon subsequently filed a claim with the Secret Service in the amount of \$265, representing the difference between the claimed actual amount of his damages and the amount which Mayflower paid to him in settlement, under the Military Personnel and Civilian Employees' Claims Act of 1964. The authorized certifying officer questions whether the claim may properly be paid in view of the fact that reimbursement under the commuted rate system is intended to cover the cost of insurance on the employee's personal property.

Section 3(a) of the Military Personnel and Civilian Employees' Claims Act of 1964, Pub. L. No. 88-558, approved August 31, 1964, 78 Stat. 767, as amended, 31 U.S.C. § 241(b)(1), Supp. IV (1974), authorizes the head of each agency or his designee to pay claims up to \$15,000 for damages to, or loss of, personal property incident to an employee's service. In addition, 31 U.S.C. § 242 states:

"Notwithstanding any other provision of law, the settlement of a claim under sections 240 to 243 is final and conclusive."

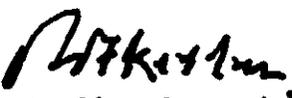
In view of the provisions of 31 U.S.C. § 242 which make agency settlements thereunder final and conclusive, it is not within the jurisdiction of our Office to review claims for damages to, or loss of, personal property of employees of the Secret Service. See B-180161, January 8, 1974.

The submission shows that the claimant contracted with Mayflower privately so that the carrier would incur additional liability up to the amount of \$25,000. The Government was not a party to either the contract or the agreed upon settlement. Furthermore, the Department of the Treasury regulations issued pursuant to the Military Personnel and Civilian Employee's Claims Act of 1964, 31 U.S.C. 240-243, require that an employee insure property which is extraordinarily expensive rather than have the Government underwrite such losses. 31 C.F.R. §§ 4.4(d) and 4.5(b) (1976). Since one of the damaged pianos was valued at \$15,000, it appears that such regulations are applicable. Section 4.7 of the Department of the Treasury regulations, title 31 C.F.R., requires the employee to make demand upon the carrier or insurer and to assign his rights against the carrier or insurer in the event the Government makes payment for the loss or damage to his household goods. It is not clear from the record, but Mr. Aragon may have settled with the carrier to the prejudice of the Government's rights under this assignment-of-rights clause.

B-188264

There is no indication in the submission that a determination has been made by the Secretary of the Treasury or his designee that Mr. Aragon's claim should be paid in accordance with section 241(b)(1) of title 31 of the United States Code and Department of the Treasury regulations issued thereunder and published at part 4 of title 31, Code of Federal Regulations (1976). The claim may be paid only if such a determination is made by proper officials of the Department of the Treasury. 31 C.F.R. § 4.12 (1976).

Accordingly, action should be taken in accordance with the foregoing.


Deputy Comptroller General
of the United States